

ARIZONA PROSECUTING ATTORNEYS' ADVISORY COUNCIL  
MINUTES

September 8, 2016

The meeting of the Arizona Prosecuting Attorneys' Advisory Council was called to order by APAAC Chair Sheila Polk on Thursday, September 8, 2016, at 1:00 p.m. at the APAAC office located at 1951 W. Camelback Road, Suite 202, in Phoenix, Arizona.

COUNCIL MEMBERS PRESENT

Sheila Polk	APAAC Chair, Yavapai County Attorney
Brad Carlyon	APAAC Vice-Chair, Navajo County Attorney
John Belatti	Mesa City Prosecutor
Ryan Glover	Glendale City Prosecutor (telephonic)
Vicki Hill	Phoenix City Prosecutor (telephonic)
Barbara LaWall	Pima County Attorney (telephonic)
Marc L. Miller	Dean, University of Arizona College of Law
Bill Montgomery	Maricopa County Attorney
Derek Rapier	Greenlee County Attorney
Tony Rogers	La Paz County Attorney (telephonic)
David Rozema	Coconino County Attorney (telephonic)
Jon Smith	Yuma County Attorney (telephonic)
Matt Smith	Mohave County Attorney (telephonic)
Lando Voyles	Pinal County Attorney (telephonic)

COUNCIL MEMBERS PRESENT BY PROXY

Brad Beauchamp	Gila County Attorney Proxy Bill Montgomery
Mark Brnovich	Arizona Attorney General Proxy Paul Ahler
David Byers	Arizona Supreme Court Administrative Director Proxy Jerry Landau
Alan Merritt	Tucson City Prosecutor Proxy Roi Lusk (telephonic)
Tobin Sidles	Oro Valley Town Prosecutor Proxy Sheila Polk
George Silva	Santa Cruz County Attorney Proxy Liliana Ortega
Michael Whiting	Apache County Attorney Proxy Sheila Polk

STAFF PRESENT

Elizabeth Ortiz	Executive Director (telephonic) <i>until 1:30 p.m.</i>
Diana Cooney	Office Manager

GUESTS PRESENT

Heather Bohnet	Program Coordinator, AZ Criminal Justice Commission
Jeremy Ford	Greenlee County Chief Deputy Attorney
Aaron Gorrell	Waterhole Justice Consulting
Andrew LeFevre	Executive Director, AZ Criminal Justice Commission

## CONSENT AGENDA

Ms. Sheila Polk presented the consent agenda, including minutes from the August 5, 2016, Council meeting, for approval. Mr. Derek Rapier made a motion, seconded by Mr. John Belatti, to approve the consent agenda. Motion carried.

## CHAIR'S REPORT

Ms. Polk, Vice-Chair of the Arizona Criminal Justice Commission (ACJC), asked guest Mr. Andrew LeFevre, ACJC Executive Director, to provide the Council with an update. Mr. LeFevre stated that ACJC will hold its next meeting on Thursday, September 22, 2016, at 10:00 a.m., followed by a strategic planning meeting until 3:00 p.m. At the July 2016 meeting, ACJC created a working group, chaired by Oro Valley Police Chief Daniel Sharp, to research the trending decline in CJEF funding and the impact on agencies, such as APAAC; to look for other potential resources for funding; and, to work legislatively on possible funding reallocation. Mr. LeFevre will report back to the Council with those findings. ACJC also plans to work with APAAC in its ongoing review of the Arizona criminal code to identify statutes that have not been utilized over the years. Following ACJC's analysis of DPS data, Mr. LeFevre will report back to APAAC with the general numbers by statute from this research and will ask for Council feedback.

Mr. LeFevre reported that the National Criminal Justice Association (NCJA) and the National Governors Association (NGA) have launched an initiative called the National Criminal Reform Project. The NCJA and NGA will host a meeting in Denver in October 2016 to strategize with teams of four individuals from twenty states; Arizona has applied to participate. The project's goals and objectives will be established by a stakeholder survey that was sent out to identify criminal justice priorities in state and local jurisdictions.

## EXECUTIVE DIRECTOR'S REPORT

APAAC has launched a campaign for prosecutors and staff to submit photos that "Show Us Your Purple" in support of October as National Domestic Violence Awareness month. APAAC will select a winning photo and award a gift certificate for a two-night stay at the JW Marriott Starr Pass in Tucson, Arizona.

In conjunction with the "Lighting Arizona Purple" kickoff event on October 3, 2016, the Governor's Office of Youth, Faith and Family ("GOYFF"), the Maricopa County Attorney's Office, and APAAC are co-sponsoring a multi-disciplinary training on "Supporting Survivors & Communities," from 1:00-4:30 p.m. Two of the guest speakers, funded by the Maricopa County Attorney's Office, will give a presentation on "Vicarious Trauma," and the other presenter will speak on trauma-informed care. APAAC will send out an email announcement with the event details.

As a member of the Judicial College Board, Ms. Ortiz announced that a forensic training specifically for judges will be held in early December in conjunction with the Governor's Office of Highway Safety's ("GOHS") DUI conference for judges. Ms. Ortiz shared news that the Arizona benchbook update will soon be available. The board is also researching the topic of training for pro tem judges as they are appointed to serve across the state; and Ms. Ortiz encouraged Council members to provide her any input on that subject.

Ms. Ortiz stated that she has met with Ms. Allister Adel, the new Executive Director for the Maricopa County Bar Association ("MCBA"). Ms. Ortiz has recently joined MCBA, whose membership is well represented by the judicial community and defense attorneys. Ms. Ortiz plans to work with Ms. Adel to collaborate on possible training and networking opportunities for the prosecution community.

Ms. Ortiz recently completed her term on the State Bar of Arizona's CLE Committee and will now sit on its Mandatory CLE Committee. She will provide committee updates as necessary.

Ms. Ortiz reported that the State Bar's "train-the-trainer" program will hold its third annual CLE Institute, which is well-represented by the prosecutor community.

Ms. Ortiz continues to teach the State Bar's Professionalism Course, which provides a great opportunity to network and spread the prosecutorial message to a general audience.

The last Council meeting this year is scheduled on December 1, 2016, from 1:00-3:00 p.m., to be held in conjunction with the Arizona Association of Counties' (AACo) Winter Conference at the Carefree Resort in Carefree, Arizona. Immediately following the Council meeting, APAAC will hold an Executive Training starting at 3:00 p.m. that afternoon. The agenda will include topics, such as civil responsibilities, of particular interest to newly-elected county attorneys or those in prosecution leadership positions. The following day, December 2, 2016, from 8:30 a.m. to 12 noon will feature a training session for all elected officials, co-sponsored by AACo and APAAC. Ms. Ortiz noted that attendance at the APAAC Council meeting and Executive Training on December 1, 2016, will not require registration for the AACo conference. However, those who attend any other AACo meeting, including the joint training on December 2, 2016, will be required to register and pay the conference fee.

Ms. Ortiz presented the revised version of the 2017 Council meeting schedule based on Council input. Ms. Polk suggested moving the August 4, 2017, meeting to be held in conjunction with the AACOP Pow Wow in Flagstaff during the week of July 17-21, 2017.

#### BEST PRACTICES COMMITTEE REPORT

Ms. Ortiz referred Council to the seminar report attachment showing APAAC-sponsored trainings in August and September, 2016. APAAC's Appeals for Trial Prosecutors seminar on August 19, 2016, using the new seminar model, had 26 attendees either in person at APAAC's conference center or by "live webcast." Ms. Ortiz highlighted upcoming seminars, including the Juvenile Justice course on September 16, 2016, also offering in-person or live-webcast attendance; and, the Fundamentals of Trial Advocacy course, with a redesigned curriculum, on September 19-23, 2016, at the Maricopa County Security Building in Phoenix. Ms. Ortiz announced that APAAC will host an Executive Training session on Prosecutor's Encyclopedia training on Friday, October 7, 2016, at 11:30 a.m., immediately before the Council meeting at 1:00 p.m. Ms. Ortiz added that other upcoming APAAC trainings include the Professionalism course on October 14, 2016; the Capital Litigation seminar on October 21, 2016; and the AZ Career Prosecutor course on November 14-18, 2016.

Ms. Ortiz announced the Best Practices Committee will meet on October 7, 2016, at 10:00 a.m. to discuss parameters for APAAC's 2017 Annual Prosecutor Conference.

#### ACJC MISSING FINGERPRINT STATEWIDE ASSESSMENT PROJECT

Guest speaker, Mr. Aaron Gorrell, gave an overview of ACJC's statewide assessment project concerning missing fingerprints. Based on House Bill 2154, the Maricopa County Sheriff's Office will be responsible for Type 01 fingerprinting as of January 1, 2017. ACJC will hold three webinars (two in November and one in December) to educate and inform local agencies on how existing fingerprinting procedures will be affected. Mr. Gorrell encouraged input from the Council, the prosecutors, and the courts on best practices and recommended training; also, how APAAC and ACJC might help to facilitate training for the criminal justice community.

#### ARIZONA SUPREME COURT FAIR JUSTICE FOR ALL TASK FORCE

Mr. Jerry Landau stated that Mr. David Byers is Chair of the Arizona Supreme Court's "Justice for All" Task Force, which issued its report consisting of 11 principles and 65 recommendations. Mr. Landau gave a presentation of the Task Force report and a handout of its executive summary. The full report is available at [www.azcourt.gov](http://www.azcourt.gov).

#### APAAC APPOINTEES FOR LEGISLATIVE STUDY COMMITTEE ON INCOMPETENT, NONRESTORABLE AND DANGEROUS DEFENDANTS

Ms. Polk reported that one of the two appointees previously voted on by the Council for the legislative study committee did not meet the statutory criteria for this appointment. Mr. Rapier made a motion, seconded by Mr. Paul Ahler, for the Council to appoint a designee from the Maricopa County Attorney's Office to replace the Yavapai County appointee on the legislative study committee. Motion carried.

#### ACIC / NCIC DISCLOSURE ISSUES

Mr. Rapier stated that a recent ACIC/NCIC audit in his office highlighted an issue regarding ACJIS information; namely, disclosing prior convictions regarding defendants and witnesses. Mr. Rapier reported that their contact at the Arizona Department of Public Safety (DPS) checked with the Attorney General's Office (AGO) and was informed there should be no disclosure of any information obtained from ACJIS. Mr. Rapier is concerned that this directive conflicts with prosecutor's obligations under Rule 15.1(b)(8) and (d). Mr. Ahler offered to research the issue and report back to the Council with his findings.

#### FINANCE COMMITTEE REPORT

Mr. Rapier presented APAAC's Financial Reports for July 2016, as recommended for approval by the Finance Committee. Mr. Rapier made a motion, seconded by Ms. Liliana Ortega, to approve the APAAC Financial Reports for July 2016. Motion carried.

## LEGISLATIVE POLICY COMMITTEE REPORT

Mr. Jon Smith reported that APAAC staff is moving forward with hiring a Legislative and Communication Liaison in October 2016. Mr. Smith also advised the new legislative session will commence the second Monday in January 2017, and he encouraged Council members to submit bills of interest for the LPC's consideration. Mr. Landau added that the "prosperity district" legislation was discussed at a recent ad hoc committee meeting and should be put on the LPC's radar.

## RULES COMMITTEE REPORT

Mr. Belatti moved to table this item until the Rules Committee can meet next week to discuss R-16-0041, a Petition to Amend Rules 6, 7 and 41 of the Arizona Rules of Criminal Procedure. Mr. Belatti made a motion, seconded by Mr. Ahler, to table this item. Motion carried.

## NACo / AACo REPORT

Mr. Brad Carlyon stated that Arizona Association of Counties' Winter Conference is scheduled on December 1-2, 2016, at the Carefree Resort and Conference Center in Carefree, Arizona.

## NDAA REPORT

Mr. Bill Montgomery reported the National District Attorneys Association (NDAA) affiliate conference with NAJIS will be held October 31 – November 3, 2016, in Tucson. Mr. Montgomery informed Council of NDAA's recent press release addressing the President's Council of Advisors on Science and Technology (PCAST) report that was critical of the forensic discipline used in criminal justice investigation and prosecution. Mr. Montgomery is confident the findings of the PCAST report will not measure up to the standards practiced in Arizona.

## CALL TO THE PUBLIC

Mr. Ahler reported that the Attorney General's Office chairs a Victims' Rights Advisory Committee, which is gathering information regarding victims' rights issues that arise at initial appearances. Mr. Ahler will be distributing to APAAC members within the next several weeks a short survey to identify the problem areas on this issue and how to address them through training.

Dean Marc Miller announced that Mr. Larry Thompson is scheduled at 12:00–1:30 p.m. on September 28, 2016, to speak at the University of Arizona's James E. Rogers College of Law as part of its annual criminal justice Soll Lecture Series. Council members interested in attending the lecture via live streaming should contact Dean Miller.

Dean Miller also announced that Ms. Barbara Bergman is the new director of advocacy program for the James E. Rogers College of Law.

NEXT COUNCIL MEETING

The next Council meeting is scheduled for Friday, October 7, 2016, at 1:00 p.m. in the APAAC office.

ADJOURNMENT

Ms. Polk declared the meeting adjourned at 3:00 p.m.